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4 UNITED STATES DISTRICT COURT  
5 WESTERN DISTRICT OF WASHINGTON  
6 AT SEATTLE

7 QIAN CHEN,

8 Plaintiff,

9 v.

10 SEATTLE OFFICE FOR CIVIL RIGHTS,

11 Defendant.

Case No. 2:19-CV-01391-RAJ

**ORDER DECLINING SERVICE,  
GRANTING LEAVE TO AMEND,  
AND DENYING MOTION FOR  
TELEPHONIC COMMUNICATION  
WITH COURT**

12 Qian Chen, proceeding *pro se* and *in forma pauperis*, has filed a civil complaint. Dkt. 7.  
13 He also filed a motion requesting all communication and documents be submitted via the  
14 telephone. Dkt. 5. The complaint names the Seattle Office for Civil Rights as a defendant but is  
15 otherwise blank. The Court **DECLINES** to serve the complaint because it is deficient, but  
16 **GRANTS** Mr. Chen leave to file an amended complaint by **October 11, 2019**. Plaintiff's motion  
17 for telephonic communication is **DENIED**.

18 **DISCUSSION**

19 "[T]he court shall dismiss the case at any time if the court determines that ... the action  
20 ... (i) is frivolous or malicious; (ii) fails to state a claim upon which relief may be granted; or  
21 (iii) seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. §  
22 1915(e)(2)(B)(i)–(iii). This provision applies to all actions filed *in forma pauperis*. See *Lopez v.*  
23 *Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000).

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1 Dismissal of a complaint for failure to state a claim upon which relief may be granted is  
2 provided for in Federal Rule of Civil Procedure 12(b)(6), and 28 U.S.C. § 1915(e)(2)(B)(ii)  
3 tracks that language. Thus, when reviewing the adequacy of a complaint under 28 U.S.C. §  
4 1915(e)(2)(B)(ii), the court applies the same standard as is applied under Rule 12(b)(6). *See*  
5 *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012).

6 In reviewing the complaint under this standard, the court must accept as true the  
7 allegations, construe the pleadings in the light most favorable to the plaintiff, and resolve all  
8 doubts in the plaintiff's favor. *Jenkins v. McKeithen*, 395 U.S. 411, 421 (1969). Additionally,  
9 allegations in pro se complaints are "held to less stringent standards than formal pleadings  
10 drafted by lawyers" (*Hughes v. Rowe*, 449 U.S. 5, 9 (1980)), and "[a] pro se litigant must be given  
11 leave to amend his or her complaint, and some notice of its deficiencies, unless it is absolutely  
12 clear that the deficiencies of the complaint could not be cured by amendment." *Cato v. United*  
13 *States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

14 To avoid dismissal for failure to state a claim, the plaintiff must include a short and plain  
15 statement of a claim, which shows that he is entitled to relief. This is required to "give the  
16 defendant fair notice of what the claim is and the grounds upon which it rests." *See* Federal Rule  
17 of Civil Procedure Rule 8(a)(2); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 554 (2007) (*citing*  
18 *Conley v. Gibson*, 355 U.S. 41 (1957)). The plaintiff must include more than "naked assertions,"  
19 "labels and conclusions" or "a formulaic recitation of the elements of a cause of action."  
20 *Twombly*, 550 U.S. at 555-557. A claim upon which the court can grant relief has facial  
21 plausibility; in other words, a claim has "facial plausibility when the plaintiff pleads factual  
22 content that allows the court to draw the reasonable inference that the defendant is liable for the  
23

1 misconduct alleged.” *Iqbal*, 129 S.Ct. at 1949.

2       Because Mr. Chen has included no factual allegations in his complaint, it is impossible  
3 for the Court to discern what cause of action he is attempting to assert. Although the Clerk has  
4 designated this case as one asserting a claim under the Americans with Disabilities Act  
5 (“ADA”), there is nothing in Plaintiff’s filings to indicate that he intended to bring such an action  
6 or in fact, any action at all. The Court notes that in a telephone communication with the Clerk of  
7 Court on August 30, 2019, Mr. Chen indicated that he meant to name the “Department of  
8 Education, Office of Civil Rights” as a defendant. Regardless of which entity is named, the  
9 Complaint is subject to dismissal because it contains no factual allegations.

10       Mr. Chen also told the Court Clerk that he does not intend to file anything further in this  
11 case and that he desires all communication with the Court to be via telephone because he is  
12 visually impaired. The Court finds no basis for granting such an extraordinary request,  
13 particularly as Mr. Chen previously filed several IFP applications and complaints in this District.  
14 *See* Case No. 2:07-cv-55-RSM *Chen v. University of Washington* (filed 01/12/07, closed  
15 03/05/08); Case No. 2:07-cv-00514-TSZ *Chen v. United States Department of Education* (filed  
16 04/06/07, closed 06/03/08); Case No. 2:08-cv-00160-JLR *Chen v. University of Washington*  
17 (filed 01/31/08, closed 06/03/08); Case No. 2:08-cv-00426-JCC *Chen v. University of*  
18 *Washington* (filed 03/13/08, closed 05/13/08); Case No. 2:08-cv-00427-RSL *Chen v. Martinez*  
19 (filed 03/13/08, closed 05/05/08); Case No. 2:11-cv-02140-EFS *Chen v. University of*  
20 *Washington et al* (filed 12/21/11, closed 03/19/12).

21       And at the time he filed the complaint in this action, Mr. Chen filed similarly blank IFP  
22 applications and blank complaints in seven other cases (naming some of the same parties

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1 previously dismissed): *See* Case No. 2:19-cv-01386-RAJ *Chen v. Human Rights Commission*;  
2 Case No. 2:19-cv-01387-RAJ *Chen v. Martinez*; Case No. 2:19-cv-01388-RAJ *Chen v. City of*  
3 *Seattle*; Case No. 2:19-cv-01389-RAJ *Chen v. Cantwell*; Case No. 2:19-cv-01390-RAJ *Chen v.*  
4 *University of Washington*; Case No. 2:19-cv-01392-RAJ *Chen v. Department of Services for the*  
5 *Blind*, and Case No. 2:19-cv-01424-RAJ *Chen v. Social Security Administration*. In six of these  
6 cases, recommendations to deny Mr. Chen's *in forma pauperis* applications and dismiss his  
7 complaints without prejudice are pending and in Case No. 2:19-cv-1389, he has been ordered to  
8 submit an amended *in forma pauperis* application.

9 Notwithstanding the foregoing, the Court realizes Mr. Chen is proceeding *pro se* and  
10 therefore, grants Mr. Chen permission file an amended complaint that sets out in short, plain  
11 statements: what occurred, when it occurred, who was involved, and how plaintiff was harmed.  
12 Mr. Chen should file this amended complaint by **October 11, 2019**. The amended complaint  
13 must carry the same case number as this one. If Mr. Chen fails to timely file an amended  
14 complaint or files an amended complaint that fails to set forth factual allegations to allow the  
15 Court to meaningfully screen his complaint, this matter shall be dismissed with prejudice.

16 Plaintiff's motion for telephonic communication (Dkt. 5) is **DENIED**.

17 DATED this 13th day of September, 2019.

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20 The Honorable Richard A. Jones  
21 United States District Judge  
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